IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION

Dated : Nainital the June 27th, 2006

Criminal Misc. Bail Application No.549 of 2006

Order on the bail application of accused

CRIMINAL SIDE

Sunder Kumar Arya
S/o Sri Madhan Ram Arya
R/o village Karala
P.O. Dharamghar
District Pithoragarh ….. Applicant

Versus

State of Uttaranchal ….. Opposite Party

Arising out of case crime No.457 of 2006
Under Sections 376 IPC
P.S. Tallital
District Nainital

Hon'ble J.C.S. Rawat, J.

Heard Sri R. S. Sammal learned counsel for the applicant and learned A.G.A. for the State.

Perused the record. The case diary is available with the learned A.G.A. It is alleged in the FIR that on 06.05.2006 at about 8PM the applicant committed rape upon the victim. When the victim was coming to her house after the incident she met with some ladies who had asked about her disturbed clothes and her condition. It was also alleged in the FIR that the visual appearance of the girl and her clothes showed that the rape had been committed upon her. The report was lodged after an inordinate delay i.e. on 13.05.2006. However, the victim has stated that she has already told her mother about the incident after three days of the incident and till that time she could not tell due to fear of the applicant who had threatened her after the commission of offence that if she would narrate the incident to anyone she would face the dire consequences. It was contended on behalf of the applicant that there is an inordinate delay in lodging the FIR. It was further contended that the medical report shows that there was no sign of torn hymen and the hymen was found intact and admits tip of little finger. It was contended that the statement under section 164 Cr.P.C. had not been recorded. It was further contended that the

statement recorded under section 161 Cr.P.C. reveals that the act of rape was completely committed upon the girl. It was further contended that there is no statement of the women, who met with the girl on the way immediately after the incident. The prosecution had not stated as to why the said women had not stated to the family members of the girl. Learned AGA could not show me any such statement of the women who met with the girl on 06.05.2006. Considering the facts and circumstances of the case, it is a fit case for bail.

Let the applicant-accused be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the Magistrate concerned.

(J. C. S. Rawat, J.)

Dated 27.06.2006

LSR